

# Overview Background Private versus Public Regulation DOE Orders DEAR Orders as ARARs NRC Regulations and Orders

# Background/Legislation The Atomic Energy Act of 1954 Department of Energy Organization Act of 1977 DOE Orders & ARARS

## **Notes:**

Title 42 U.S.C. 2011, et. seq., The Atomic Energy Act of 1954, as amended, authorizes the management of atomic energy activities.

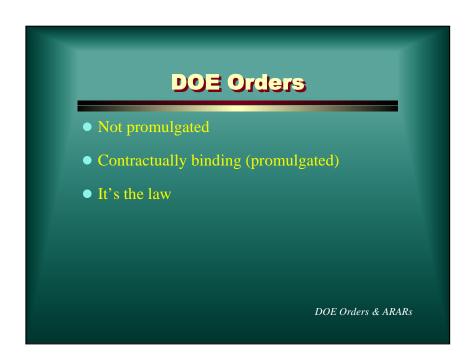
Title 42 U.S.C. 7101, et. seq., The Department of Energy Organization Act, as amended created the Department of Energy to coordinate the effective administration of federal energy policy and programs.

## Legislation Created Two Federal Agencies Nuclear Regulatory Commission Private nuclear materials Regulations Department of Energy Federal nuclear materials Regulations Orders Orders

# Policy Statements Describe philosophies of the Department Regulations Enforceable requirements Orders Establish objectives, requirements, and responsibilities Notices Like Orders, but more immediate Manuals Supplement orders DOE Orders & ARARs

# Department of Energy Acquisition Regulation (DEAR) • DEAR (48 CFR 9) • DEAR (48 CFR 9). • Contract management • Applies to all DOE acquisitions of supplies and services • Comply with DOE Orders - 5400.1

# Implementation of DOE Orders Contracter-driven organization Comply with Orders in contract Oversight by DOE DOE Orders & ARARs



# External Regulation Self-regulating External regulation Environmental Management Transitional stage

## Environmental Policy DOE Order 5400.1 DOE is firmly committed ... to environmental protection goals. DOE policy to conduct the Department's operations in compliance with the letter and spirit of applicable environmental statutes, regulations, and standards. (page 6) Federal Facility Agreements Environmental Laws - both federal and state ARARs compliance

## Orders versus ARARs A View from DOE

- Round peg in a square hole
- Orders are not ARARs
  - CERCLA compliance with other laws manual (pages 5-17 and 5-18)
- Orders are not TBCs
  - March 29, 1993, memorandum
- DOE must comply with Orders

DOE Orders & ARARs

## Orders as ARARS A View from EPA

- Square peg in a round hole
- Orders are not ARARs
- Orders are TBCs
- Is the Order more instructive or more stringent or more prescriptive?
- Negotiate with EPA/state

DOE Orders & ARARs

## What are DOE Orders?

- Orders are neither ARARs nor TBCs
- DOE must comply with Orders
- If the CERCLA process meets the requirement in the Order, then the Order as well is satisfied
- Orders included in RODs are enforceable
- When the Order is part of the signed ROD, the Order cannot be waived using DOE procedures

DOE Orders & ARARs

# Orders and NRC Regulations NRC cannot regulate DOE (AEA) DOE cannot regulate NRC Disposal of high-level nuclear waste - NRC regulates DOE DOE Orders & ARARS

## Orders and NRC Regulations • Can use NRC regulations when they are more prescriptive than the DOE Order

- NRC regulations can only be relevant and appropriate
- Must complete requirements in the Order

DOE Orders & ARARs

## Summary

- DOE Orders are not ARARs
- DOE must complete the requirements in the Order
- Order included in RODs are enforceable
- NRC requirements can only be relevant and appropriate
- Can use NRC regulations as relevant and appropriate when they are more prescriptive

DOE Orders & ARARs